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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,150	01/09/2007	Derk Bastiaan Euwen	3135-050936	2955

7590 05/05/2009  
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EXAMINER
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CLEMENTE, ROBERT ARTHUR

ART UNIT	PAPER NUMBER
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1797

MAIL DATE	DELIVERY MODE
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05/05/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/530,150	<b>Applicant(s)</b> EUWEN, DERK BASTIAAN	
	<b>Examiner</b> ROBERT A. CLEMENTE	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
- 4a) Of the above claim(s) 28-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20071105</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 16 - 27, filed on March 2, 2009 is acknowledged. The traversal is on the ground(s) that the restricted inventions are not independent inventions and that examination of both claimed invention together would not present a serious burden on the U.S. Patent and Trademark Office. This is not found persuasive because the issue as to the meaning and intent regarding "independent and distinct" as used in 35 U.S.C 121 and 37 CFR 1.41 has been adequately addressed in MPEP §802.01. Therein, it is stated that the legislative intent was to maintain the substantive law on the subject of restriction practice prior to enactment of 35 USC 121. Such practice permitted restriction between distinct, albeit dependent inventions. If the intent had been otherwise, then only the term "independent" would have been used. Thus, restriction between the distinct inventions set forth in this application is proper even though these inventions are clearly related.

With regard to applicants allegation that joinder of these distinct inventions would not present a serious burden to the U. S. Patent and Trademark Office, such allegations relied on the unsupported assumption that the search and the examination of both the invention would be coextensive. However, the issues raised in the examination of apparatus claims are divergent from those raised in the examination of process claims. Further, while there may be some overlap in the searches of the two inventions, there is not reason to believe that the searches would be identical. Therefore, based on the

additional work involved in searching and examining both distinct inventions together, restriction of the distinct inventions is clearly proper.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 16 - 18, 23, 24, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,870,868 to Kita et al.

Kita discloses an air conditioning unit having a casing (1), or housing, as shown in figure 2. An air conditioning unit inherently has parts that can be considered gas-treating components, although this limitation is regarded as intended usage and any housing capable of holding gas-treating components could read on the claim. The body of the casing (1) is formed by a plurality of the panels (52) shown in figure 1(c). As shown in figure 2, the casing (1), or housing, has an opening (25) that forms a gas inlet and an opening (15) that forms a gas outlet. The inlet and outlet connect to the space in the casing that holds the parts of the air conditioner. The panels (52) include an outer frame (71), shown in figure 1(a) and a foamable liquid urethane resin (R), shown in figure 7. In column 4 lines 10 and 11, the outer frame (71) is disclosed to be made from a synthetic resin. Both the urethane resin and synthetic resin form a plastic.

In regard to claims 17 and 18, figures 5(a) - 5(c) show different views of the frame (51) the panels (52) attach to. The frame (51) includes angle members (55, 59, 60) that the panels are screwed into. These angle members can be considered profiles for mutual fixing of a plurality of adjacent panels, as broadly recited in the claim. The angle members, or profiles, substantially make contact with each other to form the solid frame.

In regard to claim 23, the casing (1) includes a maintenance opening (M) and a maintenance door (D), which are inherently provided with at least one panel (52).

In regard to claim 24, the panels (52), as shown in figure 8(a), can be considered to have a laminar structure with the plastic urethane resin (R) forming the inner laminate layer and the covers (72, 73) forming the outer laminate layer.

In regard to claim 27, although a simple plastic sheet could read on the claim, the panels (52) of Kita inherently form a panel capable of use in a housing as claimed in claim 16 of the instant application.

4. Claims 16, 20, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 3,148,956 to Hetherwick et al.

In regard to claims 16 and 27, Hetherwick teaches a dust-free cabinet, or housing, as shown in figure 1. The cabinet includes a filter (44), which can be considered a gas-treating component. A body of the cabinet, or housing, is formed by a plurality of panels (10, 12, 14, 16, 18). As shown in figure 1, there is a receiving space inside of the panels. Air is blown in through the filter (44) in an opening (40), or inlet,

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and flows out through the access opening (25), which forms an outlet. As disclosed in column 1 lines 54 - 68, the panels are made of plastic materials.

In regard to claim 20, as disclosed in column 1 lines 57 - 59, the panels are cemented together using a bonding means. The bonding means can be considered an adhesive, as broadly recited in the claim.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kita in view of US Patent No. 5,383,723 to Meyer.

Kita is discussed above in section 3. Kita discloses angle members that form a frame for the air conditioner and can be considered profiles. Kita, however, does not distinctly disclose the material used to make the angle members. Meyer teaches a

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similar type frame (10), as shown in figure 1, for electronic equipment. As disclosed in column 3 lines 23 - 32, the frame can be made from fiber-reinforced plastics.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kita to construct the angle members, or profiles, from fiber-reinforced plastic as suggested by Meyer as this material is known to be capable of making a rigid frame and would not be susceptible rust like metal materials.

8. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hetherwick in view of US Patent No. 5,135,813 to Ingle.

Hetherwick is discussed above in section 4. Hetherwick discloses cementing the panels together with a bonding material, or adhesive. Hetherwick, however, does not disclose the type of bonding material used. Ingle teaches a mastic composition, which exhibits high adhesion and sealing with various plastic and synthetic materials, as disclosed in column 15 lines 51 - 56.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hetherwick to use mastic as the bonding agent as suggested by Ingle since the mastic material is known to adhesively connect plastic materials with a strong seal.

9. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hetherwick in view of US Patent No. Chirnomas.

Hetherwick is discussed above in section 4. Hetherwick discloses clear acrylic plastic panels that are cemented together with a bonding material. Hetherwick does not disclose welding the panels together. Chirnomas discloses vending machine with a

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refrigerated compartment. In column 3 lines 44 - 51, Chirnomas discusses connecting thermoplastic parts. Chirnomas discloses that conventional adhesive techniques and other well known techniques, such as sonic welding, can be used to attach thermoplastic materials. As acrylic plastic is a thermoplastic one of ordinary skill in the art would reasonably expect sonic welding could be used to connect the panels of Hetherwick.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hetherwick to weld adjacent panels together using sonic welding as suggested by Chirnomas since this technique is well known in the art to be an equivalent means to adhesion to connect thermoplastics.

10. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kita in view of US Patent No. 3,862,880 to Feldman.

Kita is discussed above in section 3. Kita discloses laminate panels, but does not disclose providing the laminate with a wood layer. Feldman teaches a laminate material, shown generally in figure 4, which can be used to make the panels and door of a refrigeration apparatus, as shown in figure 3. The interior of the laminate is formed by a polyurethane foam (62). As disclosed in column 7 lines 33 - 38, the layer (54) adhered to the foam (62) can be either a metal with a wear resistant material on its surface or wood covered with a plastic laminate.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kita to include a laminate panel with a foam interior, a wood layer, and a plastic outer layer as suggested by Feldman since this type of laminated panel is



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well known in the art and has a thermal insulating effect that would minimize the impact of the outside temperature on the air conditioning unit.

In regard to claim 26, in the combination the outer plastic layer laminated on the wood can be considered the first laminate layer. The wood layer forms the second laminate layer and the urethane foam interior can be considered the third layer. The urethane foam inherently has a sound-insulating capacity and can be considered a sound-insulating material.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Other prior art references listed on the PTO-892 (Notice of References Cited) are considered to be of interest disclosing similar housings and panels.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT A. CLEMENTE whose telephone number is (571)272-1476. The examiner can normally be reached on M-F, 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RAC

/DUANE SMITH/  
Supervisory Patent Examiner, Art Unit 1797